

# ATTACHMENT B

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation of  
Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

KEN-WEN FAMILY LIMITED PARTNERSHIP;  
KENNETH W. BROWN, in his capacity as a  
General Partner of the Ken-Wen Family Limited  
Partnership; and WENDY BROWN, in her  
capacity as a General Partner of the Ken-Wen  
Family Limited Partnership,

Defendants.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

Adv. Pro. No. 10-04468 (SMB)

**EXPERT REPORT OF  
MATTHEW B. GREENBLATT, CPA/CFF, CFE  
SENIOR MANAGING DIRECTOR  
FTI CONSULTING, INC.**

**PRINCIPAL BALANCE CALCULATION  
AS APPLIED TO  
THE KEN-WEN FAMILY DEFENDANTS**

**February 3, 2020**

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## I. INTRODUCTION

1. As described in my Expert Report regarding the Methodology for the Principal Balance Calculation dated November 15, 2012 (the “Principal Balance Calculation Report”), FTI Consulting, Inc. (“FTI”) was retained by Baker & Hostetler LLP, on behalf of the Trustee, to, among other things, reconstruct the books and records of BLMIS. I am a Senior Managing Director at FTI. Additional information regarding my professional experience and recent testimony is included in my Curriculum Vitae annexed hereto as **Exhibit 1**.

2. As part of FTI’s reconstruction of the books and records of BLMIS, chronological listings of all cash and principal transactions for every BLMIS customer account were compiled. These chronological listings provided the foundation to calculate every BLMIS account holder’s principal balance on a daily basis for all dates from April 1, 1981 through December 11, 2008 (the “Principal Balance Calculation”).

3. The Principal Balance Calculation Report explains the methodology of the Principal Balance Calculation and describes the relevant documents and data that were maintained by BLMIS. Accordingly, this report should be read in conjunction with the Principal Balance Calculation Report.<sup>1</sup>

4. This report specifically applies the methodology of the Principal Balance Calculation to the BLMIS account associated with the Ken-Wen Family Limited Partnership, Kenneth W. Brown, and Wendy Brown (collectively, the “Defendants”), in the above-captioned litigation, and provides a description of the cash and principal activity in the BLMIS accounts impacting the Principal Balance Calculation for BLMIS Account 1EM226 (the “Ken-Wen Family Account”).<sup>2</sup>

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<sup>1</sup> The opinions that I render in the Principal Balance Calculation Report, the documents that I considered in connection with that Report, and the accompanying Exhibits to that Report, are all incorporated by reference. All capitalized terms not defined herein shall have the meaning ascribed to them in the Principal Balance Calculation Report.

<sup>2</sup> The name on the Ken-Wen Family Account changed over the years it was maintained with BLMIS. Prior to April 2000, the account was under the name of “VIOLET WERNER TRUSTEE WENDY E BROWN IRREVOCABLE TST DTD 3/21/90.” From April 2000 through July 2000, the account was under the name “KENNETH W BROWN WENDY E BROWN TENANTS BY THE ENTIRETIES.” From August 2000, the account was under the name “KEN-WEN FAMILY LP LTD.” (See **AMF00282568**, **AMF00282570-AMF00282571**, **MDPTPP02435552-MDPTPP02435562**, and **MDPTPP02435574-MDPTPP02435587**.)

5. This report has been prepared in connection with the above-captioned litigation and is to be used only for the specific purposes of this lawsuit. It is not to be used for any other purpose without the express written consent of FTI. If called upon to testify in this matter, I intend to provide testimony regarding my analyses and conclusions consistent with this report. FTI is being compensated at a rate of \$800 per hour for my professional time incurred in performing the work necessary to prepare this report. FTI's fees are not contingent on the conclusions reached in this report or the outcome of the above-captioned litigation.

6. The documents and data that I considered in connection with this report are listed in **Exhibit 2**. I reserve the right to supplement my report based on any additional documents or information received.

## **II. DESCRIPTION OF ACTIVITY IN THE KEN-WEN FAMILY ACCOUNT AND THE TRANSACTIONS IMPACTING THE PRINCIPAL BALANCE CALCULATION**

7. The Ken-Wen Family Account was opened with BLMIS in January 1993. Throughout its account history, the Ken-Wen Family Account had a total of 31 cash deposit and withdrawal transactions. In addition to these cash transactions, there was one inter-account transfer from BLMIS Account 1E0002 into the Ken-Wen Family Account.

8. The cash deposit and withdrawal transactions, as well as the inter-account transfer, all impacted the Principal Balance Calculation for the Ken-Wen Family Account. Each of these transactions was reflected on the Customer Statements between January 1993 and November 2008.

9. As described in the Principal Balance Calculation Report, the amount of the funds transferred from one BLMIS account to another BLMIS account (an inter-account transfer<sup>3</sup>) is limited to the amount of principal available in the *transferor's* account at the time of the transfer. Only the portion of the inter-account transfers between BLMIS accounts for which the transferor had actual principal could be transferred. As such, all inter-account transfers have been analyzed

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<sup>3</sup> An inter-account transfer is defined as a non-cash transaction between BLMIS customer accounts in which no new funds entered or left BLMIS, but rather a book entry occurred at BLMIS to internally adjust the balances of those accounts. These book entries did not reflect any transfers of cash because there was no actual movement of cash. Rather, these inter-account transfers merely changed reported value in the purported "equity" maintained in the BLMIS customers' accounts. (See Principal Balance Calculation Report, ¶¶17, 27-28, 32-34.)

and the transferee's account has been credited only up to the amount of principal available in the transferor's account on the day of the inter-account transfer.

10. Thus, in order to perform the Principal Balance Calculation for the Ken-Wen Family Account, BLMIS Account 1E0002 was analyzed to determine the amount of principal available in that account that could be transferred into the Ken-Wen Family Account.

11. **Exhibit 3** to this report (Summary Schedule of Cash and Principal Activity in the Ken-Wen Family Account) provides a summary of the activity in the BLMIS accounts that impacted the Principal Balance Calculation for the Ken-Wen Family Account.

12. **Exhibits 4A** and **4B** to this report provide detailed schedules for the Principal Balance Calculation for BLMIS Account 1E0002 and the Ken-Wen Family Account, respectively.

**A. Description of the Inter-Account Transfer From BLMIS Account 1E0002 Into the Ken-Wen Family Account**

13. The Ken-Wen Family Account was opened with an inter-account transfer from BLMIS Account 1E0002. In this instance, the transferor account, BLMIS Account 1E0002, was a pooled account where Madoff commingled the funds of certain investors into one BLMIS customer account. As described more fully in the Principal Balance Calculation Report, prior to 1993, Madoff commingled the funds of a limited number of individuals into several pooled accounts. FTI performed further investigation and analysis to calculate the principal attributable to each account on a customer-by-customer basis consistent with the BLMIS documents and/or the Trustee's counsel's determination. (*See* Principal Balance Calculation Report, ¶28 n.9.)

14. As reflected on the Customer Statements, on January 4, 1993, the Ken-Wen Family Account was opened with an inter-account transfer from BLMIS Account 1E0002, a pooled account, in the amount of \$535,163. (*See* **Exhibit 4A** for the Detailed Schedule for the Principal Balance Calculation for BLMIS Account 1E0002; *see also* **Exhibit 4B** for the Detailed Schedule for the Principal Balance Calculation for the Ken-Wen Family Account.) To determine the amount of principal available to be transferred from BLMIS Account 1E0002 into the Ken-Wen Family Account, I performed a present value<sup>4</sup> calculation by applying the following

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<sup>4</sup> Present value is "[t]he value, as of a specified date, of future economic benefits and/or proceeds from sale, calculated using an appropriate discount rate." JAMES R. HITCHNER, FINANCIAL VALUATION APPLICATIONS AND MODELS 23 (James R. Hitchner et al. eds., 2d ed. 2006).

formula:

**Present Value = Future Value / (1+ Rate of Return) ^ Number of Periods into the future for which the discounting is being computed**

15. The present value calculation consists of the following components and assumptions:

- **Future Value:** the amount of the inter-account transfer as reflected on the January 1993 Customer Statements.
- **Rate of Return:** an assumed annual rate of return of purported gains of 20%.<sup>5</sup>
- **Number of Periods:** the duration of time between the date of the inter-account transfer and the earliest date of signed documents in the Ken-Wen Family Account customer file indicating the commencement of an investment relationship with BLMIS Account 1E0002.<sup>6</sup>

16. Applying this methodology, as shown in **Table 1**, the present value of the inter-account transfer into the Ken-Wen Family Account was calculated as follows:

$$\$337,317 = \$535,163 / ((1+20\%)^2.53)$$

Table 1 - PRESENT VALUE CALCULATION	
The Ken-Wen Family Account	
Formula	PV = FV/ ((1+i)^n) \$337,317 = \$535,163 / ((1+20%)^2.53)
Earliest Signed Documents	6/25/1990
Inter-account Transfer Date	1/4/1993
Duration of Time, in Days	924
Number of Periods, in Years (n)	2.53
Assumed Annual Rate of Return (i)	20%
Reported Inter-account Transfer Value (FV)	\$ 535,163
Calculation of Present Value (PV)	\$ 337,317
Amount of Principal Credit (rounded)	\$ 340,000

<sup>5</sup> I calculated the assumed annual rate of return of the purported gains to be used in the present value calculation as 20% based on the average “Expected Rate of Return” reported on the Portfolio Management Reports for the following pooled BLMIS accounts: 1E0001-1E0006 from 1988-1993. See Principal Balance Calculation Report at ¶28 n.9.

<sup>6</sup> The number of periods is equal to 2.53 years (924 days), representing the time between the earliest date of signed documents in the Ken-Wen Family Account customer file, June 25, 1990, and the date of the inter-account transfer, January 4, 1993. See AMF00282614-AMF00282615.

17. Therefore, the amount included in the Principal Balance Calculation as principal transferred out of BLMIS Account 1E0002 and into the Ken-Wen Family Account was limited to the calculated amount of available principal of \$340,000.<sup>7</sup> (See **Exhibits 4A** and **4B**.)

**B. Description of the Inter-Account Transfer and Cash Deposits Into the Ken-Wen Family Account**

18. As discussed above, on January 4, 1993, the Ken-Wen Family Account was opened with an inter-account transfer of \$340,000 of principal from BLMIS Account 1E0002. (See **Exhibits 4A** and **4B**.)

19. Subsequent to this initial inter-account transfer, there were 18 cash deposits via checks into the Ken-Wen Family Account in the aggregate amount of \$938,000, all representing principal.

20. In sum, this one inter-account transfer and 18 cash deposits provided the Ken-Wen Family Account with a total of \$1,278,000 of principal. (See **Exhibit 3**.)

**C. Description of the Cash Withdrawals Out of the Ken-Wen Family Account**

21. Between January 4, 1993 and December 11, 2008, the Ken-Wen Family Account reflected a total of 13 cash withdrawals totaling \$7,001,000.

22. The Principal Balance Calculation for the Ken-Wen Family Account demonstrates that between January 4, 1993 and December 11, 2008, \$7,001,000 was withdrawn from BLMIS, which consisted of \$1,278,000 of principal and an additional \$5,723,000 of funds withdrawn in excess of principal, representing fictitious profits. Within the two-year period prior to December 11, 2008, \$3,850,000 of fictitious profits was withdrawn from the Ken-Wen Family Account. (See **Exhibit 4B**.)

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<sup>7</sup> I rounded the result of the present value calculation of \$337,317 to \$340,000.

### **III. SIGNATURE AND RIGHT TO MODIFY**

23. This report and the exhibits contained herein present my findings and the bases thereof. To the extent that any additional information is produced by any party, I reserve the right to incorporate such additional information into my report or to modify my report as necessary.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Matthew B. Greenblatt", is written over a horizontal line.

Matthew B. Greenblatt, CPA/CFF, CFE  
Senior Managing Director  
FTI Consulting, Inc.

Dated: February 3, 2020

#### **IV. LIST OF EXHIBITS**

**Exhibit 1** – Curriculum Vitae and Testimony of Matthew B. Greenblatt

**Exhibit 2** – Documents Considered

**Exhibit 3** – Summary Schedule of Cash and Principal Activity in the Ken-Wen Family  
Account

**Exhibit 4A** – Detailed Schedule for the Principal Balance Calculation for BLMIS Account  
1E0002

**Exhibit 4B** – Detailed Schedule for the Principal Balance Calculation for the Ken-Wen Family  
Account